

2016, and in Presidential election years, we have the Leahy-Thurmond rule that applies. Under the Leahy-Thurmond rule, the Senate typically stops confirming judges by midsummer. I am assuming that I gave Senators in 2016 the same timeline that I gave to former Senator Franken to return his blue slip for Justice Stras. We wouldn't have started holding hearings then until 2016, and by delaying until that period of time, we would have not had the record number of circuit court judges that we have had during this Presidency, because, then, the Leahy-Thurmond rule would have barred their confirmations. These four nominees also lacked floor support, and it would have been a waste of time and resources if we had proceeded. That was my judgment as chairman.

Chairman LEAHY similarly refused to hold hearings for at least six circuit court nominees for reasons besides the blue slips. He denied hearings for three nominees in the Fourth Circuit: Steve Matthews, Robert Conrad, and Glen Conrad. These nominees had two positive blue slips from their home State Senators, and two were nominated more than a year before the 2008 Presidential election, but even then, Chairman LEAHY refused to process them.

Chairman LEAHY also refused to act on the nomination of Peter Keisler, President Bush's nominee to the DC Circuit, who was nominated in 2006. Obviously, blue slips were not the reason for my predecessor's decision to stall Mr. Keisler's nomination for more than 2 years since the District of Columbia has no Senators. These decisions allowed President Obama then to stack the DC Circuit and also the Fourth Circuit with liberal judges.

Chairman LEAHY also declined to hold hearings for two Sixth Circuit Court nominees to Ohio seats, even though both Ohio Senators had returned positive blue slips. The Democratic Senators from Michigan asked Chairman LEAHY to halt proceedings on all Sixth Circuit nominees, not just those from Michigan. So Chairman LEAHY honored this request and denied a hearing to the Ohio nominees, even though the blue slips had been returned. This was the first time ever a chairman allowed Senators to halt committee proceedings on nominees for seats in other States.

As Chairman LEAHY's example shows, there isn't just one reason. There are multiple reasons for any chairman of the Judiciary Committee to deny a hearing to a nominee. Likewise, my decision not to hold hearings for the four nominees in 2016 wasn't based solely on the lack of blue slips. It is simply false, then, for my colleagues to say I changed my blue-slip policy since that particular time.

As to my decision then to hold a hearing on the nominee now before the Senate, Judge Brennan, I was satisfied that the White House adequately consulted with both Wisconsin Senators. The White House sought input from the

Wisconsin Senators and considered all the candidates recommended by each Senator. I understand the frustration that Wisconsin's judicial nominating commission hasn't worked out as had been planned by the two Senators, but Judge Brennan was the only candidate to receive bipartisan support from the commission process that is used in Wisconsin. Moreover, the commission's dysfunction can't be used as an excuse to deny the President his constitutional authority to make judicial nominations.

I would also like to point out that each Senator who has withheld a blue slip this Congress also voted to abolish the filibuster for judicial nominations back in 2013. The argument then was that 41 Senators shouldn't be allowed to block the will of a majority of this Senate, but now these same Senators have reversed themselves, saying any one Senator should have that right, through holding a blue slip, to denying the Senate an opportunity to vote.

Understand, just a few years ago, they wanted to abolish 41 Senators holding up a nomination, but today they stand before us and say one Senator ought to be able to do what they said 41 Senators shouldn't be able to do. I will not allow the blue slip to be abused in this way. The blue slip is meant to encourage consultation between the White House and home State Senators. It is not a way for Senators to have veto power over nominees for political or ideological reasons.

Finally, I hear a lot these days about the President stacking the courts or the Senate rubberstamping nominees. Well, I stand by our process. It gives Senators every opportunity to probe deeply into nominees' backgrounds. As five nominees from last year will attest, not everyone makes it through this rigorous scrutiny. I would like to bring attention to two recent Supreme Court decisions that the Trump administration lost.

In *Sessions v. Dimaya*, the Supreme Court held that the government could not deport an immigrant under a vague statutory provision. The pivotal vote was cast by President Trump's own Supreme Court nominee, Justice Neil Gorsuch.

In another case, *Chicago v. Sessions*, the Seventh Circuit held that the government could not deny funding to so-called sanctuary cities. It happens the three judges who carried that case were all appointed by Republican Presidents.

I bring up these cases not because I agree or disagree with their outcomes but simply to point out that the fears of the President stacking the judiciary are overblown. Conservative judges apply the law as written, regardless of the results, but I suppose liberals expect their judges to be results-oriented. That is why we can always confidently predict how a liberal judge might rule on a case. Liberal outside groups' real fear, then, is that newly confirmed judges recognize that their role is to

neutrally apply the law, not to legislate from the bench.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NET NEUTRALITY

Mr. DURBIN. Madam President, I come to the floor today to discuss an issue that impacts consumers, small businesses, our general economy, and most families. It is the issue of net neutrality. The concept behind this is pretty simple. It ensures that all content on the internet is treated equally so that the internet can remain an openly accessible platform for users and an equal playing field for everyone.

Unfortunately, some leaders at the Federal Communications Commission disagreed. Despite being given the responsibility to make sure they operate in the public interest when it comes to our Nation's communications networks, in December, the FCC walked away from this important responsibility and decided to put the needs of companies ahead of customers.

It appears with this administration that everything is for sale. That means public lands, our privacy, and, in this case, the pathway American families use every single day to get on the internet. Led by Chairman Pai, the FCC voted for a radical plan in December to dismantle net neutrality rules and threaten the existence of a free and open internet as we know it today. This new plan will allow large internet providers the power to freely block, throttle, or manipulate consumers' access to the internet in ways that profit the provider.

Think about your access to apps and the internet today, and compare it to your access to cable channels. If you want more channels, you put in more money. Today the internet is open to us, and we have access to it. The Trump administration, through the Federal Communications Commission, wants to change that. If you want fast internet service, you pay more money. If you want access to certain apps, you pay more money. That changes the nature of the internet as we have known it. It is a dramatic change in the way we communicate and gather information. It is just another bill.

Many people are now facing the prospect of cable TV shows and other things they have to pay more money for on a pretty substantial monthly bill. Now comes the FCC to say: We have another monthly bill for you if you want the same access to the internet today that you had before. Not only does this mean less choice and higher cost for consumers whose access to content could be determined by what is in the best financial interest of

their provider, but small businesses will no longer be able to compete on a level playing field.

For many small businesses and entrepreneurs in my State of Illinois and across the country, the internet has given them the ability to reach consumers across the globe and compete against large companies. The innovation and healthy competition that a free and open internet allows are essential to continue pushing our economy forward. If the FCC has its way, they are going to create internet fast lanes and slow lanes, where winners and losers are no longer determined by how good a business's product is but by whether a small business can afford to pay in. That is wrong. It is not good for the economy, and it is not good for our democracy.

I have heard from hundreds of thousands of Illinoisans who are concerned, and there is concern all across the country, across party lines. We filed a discharge petition today to take up this issue of net neutrality on the floor of the Senate.

We have considered a lot of rules and regulations from the Obama administration. Now we are going to consider one from the Trump administration. We are going to see if there is bipartisan support for net neutrality.

Senator COLLINS, Republican of Maine, has joined us. Will there be more? Are there a number of Republican Senators who want to stand up for net neutrality and for open access for America to the internet or do they want to sell off this opportunity to the highest bidders?

Keeping the internet a place where content is shared freely and accessed equally by everyone is important to our small businesses, educators, and consumers. We are pleading with America in the hours before we take up this measure to log on and tell the Trump administration to lay off. When it comes to net neutrality, it is too important a value across America to sell at the FCC.

Madam President, before the Senate left for last week's recess, the Republican leader, Senator MCCONNELL, filed cloture on six circuit court nominees.

I supported three of these nominees in the Judiciary Committee—Amy St. Eve, Michael Scudder, and Joel Carson—and I opposed three of them—Michael Brennan, Kurt Engelhardt, and John Nalbandian. I carefully consider each nominee's qualifications and record when I cast my votes.

I want to speak today, though, about the process that Senate Republicans are using to move judicial nominations under President Trump. I fear the Republican majority is diminishing the advice and consent role of the Senate in an effort to rush through President Trump's nominees. That troubles me. Just look at what Republicans are doing to the blue slip when it comes to circuit court nominations.

For the last century, the blue-slip process has worked well. It has encour-

aged negotiation and meaningful consultation between the White House and Senate when it comes to making lifetime appointments to the federal bench. The blue slip serves as a check and a balance, helping to steer the judicial selection process toward the center stripe, and it ensures Senators are meaningfully consulted on judicial nominations in their State.

Many Senators have established expert screening commissions to help evaluate and vet nominees in their States. When blue slips and screening commissions are respected, it leads to consensus and high-quality nominees.

Look at the way the White House worked with Senator DUCKWORTH and me on filling the two current 7th Circuit vacancies from Illinois. We had good-faith consultation and a substantive back-and-forth, and the White House respected our Illinois tradition of having an expert screening committee review and vet candidates.

This process resulted in a pair of excellent Illinois 7th Circuit nominees—Amy St. Eve and Michael Scudder, whom all sides could agree upon. That is the way it should work.

We know that blue slips and screening commissions can help build consensus and lead to good outcomes. Yet this week the Senate is taking major steps to abandon these processes.

Senator MCCONNELL is calling a vote on the floor this week on 7th Circuit Wisconsin nominee Michael Brennan. Mr. Brennan is a controversial nominee with a history of troubling statements. In particular, I am concerned by his 2001 National Review op-ed in which he argued that judges need only follow "correct precedent"—which suggests judges can disregard precedent they don't agree with. I am also concerned by his 2004 Marquette Law Review article on personal responsibility, in which he was disdainful of criminal defendants who said they had a difficult upbringing.

The Brennan nomination is controversial on substance, but even more controversial is the way this nomination has been pushed forward. Both Senator BALDWIN and Wisconsin's bipartisan screening commission were effectively cut out of the process of selecting this nominee.

Mr. Brennan failed to meet the threshold vote of the screening commission that Wisconsin's senators had set up, but President Trump nominated him anyway. Senator BALDWIN has raised serious concerns about Mr. Brennan and has not submitted a blue slip for his nomination, yet Republicans are pressing ahead. This is taking us down a troubling path.

I know that Senators in both parties like to quibble over precedents and point fingers at each other when it comes to judicial nominations, but I think all Senators understand that we have a fundamental responsibility to our constituents when it comes to federal judges in our home States. We must exercise a vigorous advice and

consent role for these judges who will sit in our States' courthouses.

It should concern all of us if any Senator is cut out of the judicial selection process in that Senator's State. None of us want that to happen to us.

If the Senate votes to confirm Mr. Brennan, we will be sending a clear signal that home State senators don't matter anymore in the judicial selection process. That is the wrong path to go down, but Senate Republicans appear to be doubling down on this path.

Today, in the Judiciary Committee, Chairman GRASSLEY called a hearing on a 9th Circuit nominee from Oregon, Ryan Bounds. This nominee has not received a blue slip from either home State senator, nor does he have the approval of Oregon's judicial selection committee.

I hope my Republican colleagues stop and think about how they would feel if this happened to them in their home States. I hope our example in Illinois shows that there is a better way—a path of good faith negotiations that can lead to compromise while respecting the Senate's important traditions and home-State practices.

There are other troubling nomination trends besides the bypassing of blue slips and home State screening commissions. Republicans also have been moving very quickly to confirm President Trump's picks for Federal judges. For example, last year the Senate confirmed 12 circuit court judges, a record for a President's first year in office. President Trump's first 15 circuit court nominees have been confirmed in an average of 131 days, including just 20 days pending on the Senate floor. This is a very fast pace. By comparison, President Obama's first 15 circuit court nominees took an average of 254 days to be confirmed, including 167 days pending on the floor.

This fast pace carries risks. Senators who do not serve on the Judiciary Committee need time to review the records of judicial nominees before voting on whether to confirm them to lifetime positions on the Federal bench.

This scrutiny is even more important in the Trump era, when nominees are often not carefully vetted before they are nominated. Just look at nominees like Brett Talley, who was rushed through the Judiciary Committee and reported on a party line vote before many Senators realized his utter lack of qualifications to be a Federal judge.

I understand the need to fill vacancies in the Federal Judiciary, but we must not do so at the expense of careful vetting.

I also want to briefly respond to the argument that somehow Democrats are being obstructionist when it comes to judicial nominees. It is wildly hypocritical for Republicans to make this argument.

Remember, my Republican colleagues retired the trophy for judicial obstruction during the Obama Administration: Republicans forced cloture filings on 36 of President Obama's judicial nominees in his first 5 years—the

same number of judicial cloture filings as in the previous 40 years combined; Republicans used the tactic of withholding blue slips to block 18 of President Obama's nominees; Republicans refused to support any Obama nominee for three D.C. Circuit vacancies, no matter how qualified; Republicans allowed only 22 Obama nominees to be confirmed in his last two years—the fewest judicial confirmations in a Congress since President Truman; and Republicans blocked Supreme Court nominee Merrick Garland from even having a hearing.

Senate Republicans often opposed President Obama's nominees simply because it was President Obama who nominated them. In contrast, Senate Democrats simply want to ensure that nominees are adequately vetted, well-qualified, non-ideological, and in the judicial mainstream.

We have the ability to make the nominations process work in a consensus way. We have done it in Illinois. I hope we can do it across the country.

Let's start by keeping the blue slip. Sometimes it can be frustrating—we saw that when Republicans used blue slips to block 18 of President Obama's nominees. But it is a tool that compels us to find consensus. Let's keep that tool.

I urge my Republican colleagues to vote no on the nomination of Michael Brennan, both because of his troubling record and because of what his confirmation would mean for the future of the blue slip. I urge my colleagues to vote for nominees like Amy St. Eve and Michael Scudder whose qualifications are outstanding, who were selected through a good process, and who have both home State Senators' support.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BARRASSO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COTTON). Without objection, it is so ordered.

#### THE ECONOMY

Mr. BARRASSO. Mr. President, last Friday, we got new numbers from the Labor Department in terms of jobs and how American workers are doing. The unemployment rate is now down to 3.9 percent. It is the lowest it has been in 17 years. One analyst from the network CNBC said: "That's a wow number."

The American economy has created 3 million jobs since President Trump took office. There are 3 million Americans who are now earning a paycheck instead of waiting for a government check. We have gotten 304,000 new manufacturing jobs since President Trump took office. There are 352,000 new construction jobs and 84,000 new jobs in the mining and logging industries. Compare this to when Democrats in Congress and in the last administra-

tion launched an all-out War on Coal. There are 84,000 new jobs in mining and logging.

Republicans ended the War on Coal. We struck down a major Democratic regulation that would have crippled the mining industry. We showed industries like manufacturing, construction, logging, and mining that we want people doing these jobs. We want people back to work. Employers have responded all around the country by hiring more people, and that makes the economy grow.

So far Republicans in Congress have gotten rid of 16 major regulations since President Trump took office—wiped them off the books completely. We have shown that Republicans are serious about cutting redtape and loosening Washington's stranglehold on our economy. Because we got rid of these rules, Americans have saved as much as \$36 billion over time. That is the cost for families and businesses jumping through the hoops and filling out the paperwork that government had previously demanded.

The latest one of these regulations that were repealed was just last month. Republicans in the Senate passed a resolution to help save people money when they are shopping for a car. We got rid of a rule that the Obama administration had written to restrict how car dealers handled financing offers to buy a car. The rule was done in a way that was actually contrary to the law. It also had the potential to limit choices for consumers. We want consumers to have more choices. Republicans in the Senate voted to get rid of this unnecessary, burdensome regulation.

President Trump has been very active in getting rid of excessive regulations as well. One of the first things he did as President was to issue an order cutting redtape. He said that for every significant new rule any agency wanted to write, it had to get rid of two rules. For every one new rule, get rid of two. That is how this administration has made a difference in Congress.

The results so far have been even better than anyone had expected. The non-partisan American Action Forum has been tracking the numbers. This is what they said. They looked at all the rules that agencies have been working on for the fiscal year we are in now—since last October. Agencies have cut 35 major regulations of the kind the President was talking about—cut 35. At the same time, they have written only five new major regulations. Major regulations are defined by how much money it costs people. President Trump said that he would cut two for every one new regulation, but so far, in terms of major regulations, he has cut seven for every new one.

Of course, one of the most important things Republicans have done in helping the economy—in addition to the regulations—has been passing the tax relief law. This law means that we now have a simpler tax system. We now

have a fairer system, and we have a system that is much less expensive for American families. Almost immediately, hard-working Americans started seeing more money in their paychecks. People got bonuses at work. People got raises. People are seeing it.

Tax cuts have been good for American families, and they have been good for the American economy as well. The Congressional Budget Office says that the economy is going to grow by more than 3 percent this year—by more than 3 percent. That is much faster than it was growing for the previous years after the recession. The office actually went back and increased their estimates for economic growth. Why? Because of the tax relief law, the tax cuts.

Wages are up nearly 3 percent from a year ago. People are seeing it all across the country. Again, that is much faster growth than we had under the previous administration. When you figure in lower taxes, people's real take-home pay is up even more.

Democratic policies led to stagnant wages for Americans. Republican policies have allowed wages to grow much more quickly. Millions of people have gotten new jobs that didn't exist before. Millions of other people have been able to switch jobs, move up in their careers, and make more money.

Overall, hiring this past month, April, went up by 20 percent compared to April of last year. It is a huge increase. A lot of these jobs are being created by small businesses.

Last week was Small Business Week across America. I visited a number of business owners across the State of Wyoming. Small business owners know that the government can either create opportunity or crush opportunity, based on regulations, mandates, and taxes. That is the kind of change that is possible under Republican pro-growth policies—creating opportunities, not crushing opportunities, as we have seen before. It is things like a national economy that is growing larger and growing faster than the American people are seeing today. Their lives are better today than they were in 2016. It is things like a small business being free to expand because it doesn't have to waste so much time and money on taxes and paperwork and government redtape—things like making sure America takes less money out of people's paychecks, letting people keep more of their hard-earned money.

When you have policies that make life easier for families and for businesses, good things happen across America. People in my home State of Wyoming get it. They are seeing it, they are experiencing it, and they are living it every day. They understand that what Republicans are doing in Congress helps them at home. That is why we are going to keep doing what we are doing, and we are going to keep going on. We are going to keep cutting regulations. We are going to keep building an "America First" economy